

In The Matter Of:

*Haydn Zeis, Administrator of the Estate of Jordn Miller v.
Springfield Township, Ohio, et al.*

Officer Robert Scherer

Vol. 1

March 14, 2017

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Haydn Zeis, Administrator of
the Estate of Jordn Miller,
Plaintiff,

vs.

Case No. 5:16-CV-02331-JRA

Springfield Township, Ohio,
et al.,
Defendants

- - -

VIDEO DEPOSITION OF ROBERT SCHERER
the Defendant herein, called by the Plaintiff under the
applicable Rules of Civil Procedure, taken before me,
Whitney Layne, a Notary Public for the State of Ohio, at
the Springfield Township Police Department, 2465 Canfield
Road, Akron, Ohio 44312 on March 14, 2017 at 10:00 a.m.

LAYNE & ASSOCIATES
6723 COOPERSTONE DRIVE
DUBLIN, OHIO 43017

1 APPEARANCES

2
3 MICHAEL HILL, ESQUIRE
4 EADIE HILL TRIAL LAWYERS
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7 Cleveland, Ohio 44127
8 on behalf of the Plaintiff

9 GREGORY BECK, ESQUIRE
10 MEL LUTE, ESQUIRE
11 BAKER DUBLIKAR BECK WILEY & MATHEWS
12 400 South Main Street
13 North Canton, Ohio 44720
14 on behalf of the Defendants
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March 14, 2017
Tuesday Session
10:00 a.m.

- - -

STIPULATIONS

It is stipulated by and among counsel for the respective parties that the deposition of ROBERT SCHERER, the Defendant herein, called by the Plaintiff under the applicable Rules of Civil Procedure, may be taken at this time by the notary Whitney Layne; that said deposition may be reduced to writing in stenotypy by the notary, whose notes thereafter may be transcribed out of the presence of the witness; and that the proof of the official character and qualification of the notary is waived.

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1 BY MR. HILL:

2 Q That's part of your job; correct?

3 A Correct.

4 Q To protect and serve; correct?

5 A That is correct.

6 Q And in terms of choosing the safest way, that
7 includes what force to use; correct?

8 A Correct.

9 Q That includes how to go about using that force;
10 correct?

11 A Yes.

12 Q That includes making decisions about how to
13 restrain a person; true?

14 A True.

15 Q That includes planning on how to address
16 members of the public when they're in a medical or mental
17 crisis; true?

18 MR. BECK: Objection.

19 Go ahead.

20 A True.

21 BY MR. HILL:

22 Q Police officers must use the least amount of
23 force needed under the circumstances; true?

24 MR. BECK: Objection.

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1 A Possibly, yes.

2 Q Have you ever received -- I know I talked to
3 you kind of more broadly about diminished mental capacity.
4 But have you ever received any training regarding how to
5 interact with members of the community who are mentally
6 ill or in the throes of a mental crisis?

7 A No. Yes and no, to be honest with you.

8 The excited delirium training I have sometimes
9 can be construed as potentially one onset mentally that
10 could be, you know -- somebody could be thrown into an
11 onset of excited delirium just mentally. But just that
12 little bit of training, nothing above and beyond that.

13 Q I want to just unpack that. I think I
14 understand it. But you've received some training on
15 excited delirium; true?

16 A Yes.

17 Q And one of the things that can cause excited
18 delirium in your understanding is an underlying mental
19 health issue?

20 A Could be, yes.

21 Q But other than excited delirium training,
22 you've never had -- let me back up again, too.

23 Were you also saying that people with excited
24 delirium behave in manners similar to people who are

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1 You know, if he starts fighting with us and
2 attacking us and attacking EMS personnel, then we might
3 have to use other force. It just depends on what they're
4 displaying to us, so --

5 Q Is the goal to -- if you have an agitated
6 person, to speak softly, quietly, and try to prevent that
7 agitation from growing?

8 A We try.

9 Q You said, "When EMS has been called, we usually
10 wait for EMS to arrive." Is that right?

11 A No. EMS is already dispatched prior to us
12 getting dispatched, usually. So we're already there, or
13 we're already going there and they're already going there.
14 We usually beat them there, so we'll go in and make the
15 initial contact.

16 But depending on the circumstances, even though
17 EMS is called by dispatch prior to us, a lot of times they
18 will not approach until the whole scene is secure. So
19 they might be a block or two down the road anyway.

20 Q So EMS in those situations would be in a
21 staging area?

22 A Sometimes they are. And sometimes they come up
23 to the house. It just depends on -- again, it's based off
24 the information they receive.

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1 Q You said you make the first contact; correct?

2 A Usually, yes.

3 Q And when you make the first contact, do you try
4 to get available information from family members about
5 what is going on with this person?

6 A Yes.

7 Q Because they're really the best resource in
8 terms of this person's mental health history; correct?

9 A Correct.

10 Q And they're the best resource in terms of how
11 this person is behaving; correct?

12 A Correct.

13 Q And they may be a good resource in terms of how
14 to interact with this person; correct?

15 A Yes.

16 Q Do you coordinate in any way with EMS to find
17 out when they're arriving or where they are arriving?

18 A No.

19 Q Have you ever undergone any training about
20 coordinating with EMS in terms of setting up a staging
21 area or anything along those lines when responding to a
22 mental health crisis?

23 A Training, no. But if we think it's something
24 that needs to be staged or something, or if we think the

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1 scene is not secure, we'll just let them know not to
2 approach yet.

3 Q But I means, in terms of -- are there any kind
4 of guidelines that you have here at the department or
5 policies saying you stage and this is how you stage?

6 A No.

7 Q This is when you make contact with EMS?

8 A Well, there's a -- there's a guideline put in
9 place for excited delirium cases about staging and EMS,
10 but it doesn't say, you know, where specifically they're
11 going to stage or how or when or anything like that.

12 Q Uh-huh. So what does that mean, then, staging?

13 A Staging just means to try to be in an area that
14 we are at. Not on scene, but maybe a few blocks away,
15 maybe a half mile away, depending on where we're located.

16 Q And we'll get into excited delirium. But does
17 it mean -- staging, does it mean a half a mile? Does it
18 mean a block? Does it mean --

19 A It depends where they stop.

20 Q What's the point of the staging area or the
21 staging -- what's the point of EMS staging anywhere?

22 A Anywhere?

23 Q Yeah. What's the point of having that as part
24 of a policy, that they're staging?

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1 A Just so that they are able to respond quicker.

2 Q Right. Because you have a person who may be
3 medically compromised; true?

4 A Yes.

5 Q You may have a person who needs immediate
6 medical attention; true?

7 A True.

8 Q It may be a person who needs the administration
9 of medications immediately; true?

10 MR. BECK: Objection.

11 A Yeah, I don't know that one. That's --

12 BY MR. HILL:

13 Q That would be up to EMS?

14 A That's up to them, yeah.

15 Q Just so I understand it, when you're asked to
16 respond to a mental health crisis at a person's home --
17 because that's the example we've been using -- do you
18 formulate a plan with your fellow officers as to when
19 you're going to arrive, who's going to arrive, who is
20 going to take the lead, anything like that?

21 A No.

22 Q How do you approach the situation? Is it just
23 you walk in and ask what's going on?

24 A Well, usually the call is dispatched to the

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1 A Yes.

2 Q When considering whether to use force, officers
3 have to consider all the evidence they have in front of
4 them; correct?

5 A Yes.

6 Q And the evidence they have in front of them
7 includes signs that a person may be exhibiting that
8 they're under increased stress; true?

9 MR. LUTE: Objection.

10 Go ahead.

11 A That could be any number of things, yes. But
12 that could be one.

13 BY MR. HILL:

14 Q And that's one of the things that an officer
15 should consider?

16 A But again, if they're out of control or they're
17 coming at us or have harmed somebody else, you know, we
18 may not have time to consider that.

19 Q Assuming that an officer has time to consider
20 that, whether a person is demonstrating signs of stress,
21 if those warning signs are present, it's something
22 officers should take into consideration; true?

23 A Yes.

24 Q And that's because when a body is already under

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1 stress, adding stress to that person can be dangerous for
2 that person; true?

3 A It could, yes.

4 Q It can cause that person to have heart rhythm
5 problems; true?

6 A Yes.

7 Q It can cause that person to have trouble
8 breathing; true?

9 A Yes.

10 Q It can cause that person to suffer from sudden
11 death; true?

12 A Yes.

13 Q Conditions that you're aware of that can
14 increase the body's physiological stress response can
15 include drug use, particularly stimulants; true?

16 A Yes, sir.

17 Q It can include mental illness; true?

18 A Yes, sir.

19 Q And specifically, I'm referring to a mental
20 health crisis, where is a person may be acting erratic or
21 under agitation?

22 A Any number of reasons, yes.

23 Q That's one of them?

24 A It could be, yes.

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1 Q Medical conditions, like excited delirium, can
2 put the body under extreme stress; true?

3 A Yes, sir.

4 Q A reasonable officer should attempt to decrease
5 the stress response of a person, not increase the amount
6 of stress; true?

7 MR. LUTE: Objection.

8 Go ahead.

9 BY MR. HILL:

10 Q When a police officer uses force, this can
11 increase the physiological response of the person's body;
12 true?

13 A It can, yes.

14 Q It can increase that agitation level; true?

15 A Yes.

16 Q It can increase that body's fight or flight
17 response; true?

18 A Yes.

19 Q Positional restraint asphyxia occurs when a
20 person's body position interferes with breathing; true?

21 A Yes.

22 Q This can be caused by a restriction on the
23 person's ability to expand his or her chest; true?

24 A Yes.

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1 Q This can be caused when the person -- or the
2 position of a person's head obstructs the airway; correct?

3 A It can, yes.

4 Q This can be caused when anything is in the face
5 or mouth of the person and it obstructs their airway;
6 true?

7 A Yes.

8 Q Positional restraint asphyxia is a life-
9 threatening medical condition; true?

10 A It can be, yes.

11 Q Positional restraint asphyxia can cause death;
12 true?

13 A Yes.

14 Q When restraining an individual, police officers
15 must actively assess the person to make sure they're
16 restrained in a manner that allows them to breathe; true?

17 A If it's feasible, yes, we try.

18 Q When restraining an individual, officers must
19 make sure that nothing is obstructing the person's
20 breathing; true?

21 A Again, we try. It's not always possible, but
22 we do what we can do, you know, when we can.

23 Q Because the result, if the breathing is
24 compromised, is the person can die; true?

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1 A That's true.

2 Q So it's not one of those things where you kind
3 of try a little bit. You've got to try very hard;
4 correct?

5 MR. LUTE: Objection.

6 Go ahead.

7 A Again, it depends on what type of fight that
8 we're involved in or level of force that's going on. But
9 when we are able to, we try to make sure that they are
10 safe during this whole resisting, so to speak.

11 BY MR. HILL:

12 Q Officers have to be aware of the risks of
13 positional restraint asphyxia whenever they're interacting
14 or restraining members of the public; true?

15 A We try to be, yes.

16 Q That's part of your job; correct?

17 A Yes.

18 Q Prone restraint is a risk factor for positional
19 asphyxia; true?

20 A It can be.

21 Q Have you received any training at Springfield
22 Township or otherwise on positioning a person to avoid
23 positional restraint asphyxia?

24 A Yes.

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1 BY MR. HILL:

2 Q Anything else?

3 A No.

4 Q And that is the risk of positional restraint
5 asphyxia, is that you go into cardiac arrest?

6 A You could, yes.

7 Q We talked about prone, a prone restraint being
8 a risk factor for positional restraint asphyxia; correct?

9 A Yes.

10 Q Prone position meaning laying face down,
11 correct, on your stomach?

12 A Yes.

13 Q Are there any policies or protocols here at
14 Springfield Township regarding how to restrain a person?

15 A What do you mean?

16 Q We have a use of force policy there; correct?

17 A Yes.

18 Q Is there any policy that you're aware of that
19 addresses prone restraint or how to restrain a member of
20 the public?

21 A Not that I'm aware of.

22 Q And other than the excited delirium training,
23 you're not aware of any specific training regarding prone
24 restraint; correct?

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1 Q That prone restraint can result in positional
2 asphyxia?

3 A Yes.

4 Q And you said roll them on their side. That's
5 because when you roll them on their side, their diaphragm
6 and chest are no longer compressed, and it opens up the
7 airways; true?

8 A That is true.

9 Q Same thing when you said roll them on their
10 back; correct?

11 A Yes.

12 Q A struggle with officers or anybody is a risk
13 factor for positional asphyxia; correct?

14 MR. LUTE: Objection.

15 Go ahead if you understand the question.

16 A Yeah, I don't know what you're meaning by a
17 struggle with.

18 BY MR. HILL:

19 Q Well, a struggle where somebody is in a prone
20 position and they're trying to get up and the officers are
21 trying to keep them down, that type of struggle increases
22 the risk of positional asphyxia because the muscles
23 require additional oxygenation; true?

24 MR. LUTE: Objection.

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1 So basically, when you as a member of the
2 police department, going to help people, you may not know
3 a person's underlying medical condition; true?

4 A That's true.

5 Q And any member of the public that you deal with
6 may have heart issues or increased stress that could put
7 them into positional restraint asphyxia if they're in a
8 prone restraint with force; true?

9 A That's true.

10 Q So you have got to be on the lookout for that
11 no matter what; correct?

12 A You try, yes.

13 Q People who are experiencing a condition,
14 sometimes described as excited delirium, are at a high
15 risk for positional asphyxia; true?

16 A If they're prone, yes.

17 Q Anything that causes the muscles to contract
18 severely, including the application of an
19 electrical-conducted weapon, increases the risk of
20 positional restraint asphyxia; true?

21 A I don't know. I can't say for certain if
22 that's accurate or not.

23 Again, positional asphyxia is -- that person is
24 laying on their stomach and we're on top of the guy, we're

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1 referring to when you say prolonged?

2 A It might be five, ten minutes.

3 Q Is it ever okay -- I mean, five minutes in a
4 prone position would be prolonged; true?

5 A If that subject is not -- if that subject is in
6 custody and in control, yes, that is way too long.

7 Q Is there any time period that a person is
8 permitted -- well, let me back this up.

9 It sounds like that at -- that a police
10 officer, like yourself, should try to get a person out of
11 prone position as soon as is feasible; true?

12 A That is true.

13 Q Persons who are exposed to repeated
14 applications of an electrical-conducted weapon are at a
15 higher risk for positional restraint asphyxia; true?

16 A That is true.

17 Q And is the reason for that the extreme stress
18 caused by the muscle contractions from the weapon?

19 MR. BECK: Objection.

20 Go ahead.

21 A Along with that person may be laying on his
22 stomach, yes.

23 BY MR. HILL:

24 Q Excited delirium is a medical condition. We

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1 talked about that; right?

2 A I can't remember if we really touched on it
3 being a definition of medical condition or not.

4 Q It is a medical condition; correct?

5 A It is, yes.

6 Q It's a life-threatening medical condition;
7 true?

8 A Yes, it is.

9 Q People in a state of what's called excited
10 delirium need emergency medical attention as soon as
11 possible; true?

12 A Yes.

13 Q People in the state of excited delirium need
14 medical attention as soon as possible because they need
15 medical treatment; true?

16 A Yes.

17 Q People are often -- police, like yourself, are
18 often the first responders contacted when a person is
19 having a medical emergency called excited delirium; true?

20 A Usually, yes.

21 Q Being in a state of excited delirium is not a
22 crime; true?

23 MR. BECK: Objection.

24 Go ahead.

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1 A That -- no, that's not a crime.

2 BY MR. HILL:

3 Q Because it's a medical condition; true?

4 A Correct.

5 Q And from a police officer's perspective, the
6 reason a person is in a state of excited delirium is
7 irrelevant; true?

8 MR. BECK: Objection.

9 A Why they're in it?

10 BY MR. HILL:

11 Q Uh-huh.

12 A Yeah, that's irrelevant.

13 Q Because from a police officer's perspective, a
14 person who is in a state of excited delirium needs medical
15 care and attention as soon as possible, regardless of what
16 caused the excited delirium; true?

17 A Yes.

18 Q And that's just like any other medical
19 condition. The reason that they're in the medical
20 condition doesn't matter as much as the fact that they're
21 in a medical condition; true?

22 A That's true.

23 Q When a person is in a state of excited
24 delirium, the pulse can race; true?

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1 A Yes.

2 Q It can put extreme stress on the body; true?

3 A Yes.

4 Q It can increase the risk of positional
5 restraint asphyxia, like we talked about; true?

6 A Yes.

7 Q Using a Taser on such a person can increase the
8 stress response even more; true?

9 MR. BECK: Objection.

10 Go ahead.

11 A It might.

12 BY MR. HILL:

13 Q Repeated applications of a Taser compound the
14 stress on the body of a person with excited delirium;
15 true?

16 MR. BECK: Objection.

17 Go ahead.

18 A If repeated tasings work, yes, it could.

19 BY MR. HILL:

20 Q By repeated tasings, I mean more than once.
21 You understand that's what I mean by repeated; true?

22 A Yes.

23 Q You taught a class called Excited Delirium;
24 correct?

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1 A Yes.

2 Q What are some of the warning signs of excited
3 delirium?

4 Is psychomotor agitation a warning sign of
5 excited delirium?

6 A There are several warning signs. It can be a
7 mental disorder, it can be --

8 Q I want to mark these a little bit slower.
9 When you say mental disorder, what do you mean
10 by that?

11 A Just a chemical imbalance of the brain.

12 Q That can cause a person to go into excited
13 delirium?

14 A It could be a contributing factor.

15 Q Knowledge that a person has an underlying
16 mental health condition is one of those things police
17 officers like yourself would want to know to see if maybe
18 this is an excited delirium case I'm dealing with?

19 MR. BECK: Objection.

20 Go ahead.

21 A All the facts help when we get them.

22 BY MR. HILL:

23 Q So you said mental disorder is a warning sign
24 of excited delirium; true?

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1 A It might be, yes.

2 Q What about disorientation, a person's
3 disorientation?

4 A That's a possibility. They usually are
5 extremely hot in temperature, over 100 degrees with
6 internal body temperature, which usually causes them to
7 disrobe and -- and try to find means to cool down.

8 They don't like glass. They don't like
9 anything reflective. They don't like any type of flashing
10 lights.

11 Q What are warning signs of excited delirium?
12 What about bizarre behavior?

13 A Those are all warning signs. They're all
14 equally precursors and warning signs of the same thing, of
15 excited delirium.

16 Q So evidence or a report that a person is
17 disrobed or taking off their clothes or running around
18 naked, that's a warning sign of excited delirium; true?

19 A That could be one precursor to it, yes.

20 Q Report that a person is mentally out of it and
21 acting bizarre, that's a potential warning sign of excited
22 delirium; true?

23 A It might; it might not be.

24 Q A report -- it's one of the things that factors

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1 towards excited delirium; correct?

2 A Yes.

3 Q A report that someone is mentally ill and
4 getting worse, that's a potential warning sign for excited
5 delirium; true?

6 A It could be.

7 Q Speech disturbances are warning signs of
8 excited delirium; correct?

9 A It -- it could be, yes.

10 Q Hallucinations are warning signs of excited
11 delirium; true?

12 A Yes.

13 Q Like people screaming out names of people who
14 aren't near them, as if they're talking to someone; true?

15 A It could be, yes.

16 Q Confusion is a potential warning sign of
17 excited delirium; true?

18 A It could be.

19 Q Diminished mental capacity, a failure to
20 understand what's going on around them, not understanding
21 your circumstances, looking dazed and confused, those are
22 also warning signs of excited delirium; true?

23 A It could be, yes.

24 Q You were aware of these warning signs of

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1 excited delirium as of September 8th, 2015; correct?

2 A Yes.

3 Q And that's because you taught a class on
4 excited delirium; true?

5 A Yes.

6 Q When you taught a class on excited delirium,
7 what were you teaching your -- I guess maybe your students
8 here at Springfield Township; right?

9 A Yes.

10 Q What were you teaching them to be on the
11 lookout? These are the things -- in addition to what
12 we've talked about -- and if it's everything we've already
13 talked about, that's fine. But if there was more than
14 what we talked about, what were the warning signs of
15 excited delirium?

16 A There's really not too many more warning signs
17 that are very -- that are publicized. Because at the time
18 we were doing this, excited delirium was still very
19 controversial with the medical field. And there were
20 doctors that believed it, and then there were a lot of ER
21 doctors that didn't believe in it and didn't believe the
22 condition even existed. So everything that we were --
23 that I would teach was just based off of things that I was
24 taught. And these are, again, from I guess one side who

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1 over the radio.

2 Q And would this be as involved as the fire
3 department radio we talked about earlier, or would this be
4 just kind of a simple --

5 A No, it's a lot --

6 Q Simpler?

7 A Yeah, less --

8 Q And your supervisor was Sergeant Moore; is that
9 right?

10 A Yes.

11 Q Was she your day-to-day supervisor?

12 A Yes, she is.

13 Q Is she still your supervisor?

14 A Yes, she is.

15 Q And I think -- I want to make sure I
16 understand. She's your supervisor, but you trained her in
17 the past; right?

18 A Yes.

19 Q You would have trained her on the excited
20 delirium?

21 A Yes.

22 Q And the use of a Taser?

23 A Yes.

24 MR. HILL: Greg, we've been going for another

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1 Q Do you have a bullet-proof vest on?

2 A Yes.

3 Q How much does all that gear weigh, bullet-proof
4 vest, you know, belt with all the equipment?

5 A The belt is probably 15, 20 pounds, and another
6 eight to 10 pounds maybe for the body armor.

7 Q So the body armor added something like 25 to 30
8 pounds total?

9 A Could be, yes, close.

10 Q And how much did you weigh back in September of
11 2015?

12 A Pretty much the same, which is between 190,
13 200.

14 Q So with all the gear and everything on, you're
15 talking, you know, 210 to 220, something like that?

16 A I would suppose. Thank you.

17 Q Somewhere in that range?

18 A Yeah.

19 Q How tall are you?

20 A 5'5.

21 Q Do you guys have -- at Springfield Township, do
22 you guys have any kind of dash cams or video-recording
23 equipment on the cars back in September of 2015?

24 A Yes.

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1 Q And how are those activated?

2 A You can either turn them on manually by just
3 hitting a button in the car or they automatically turn on
4 when you activate your overhead lights.

5 Q And when you received -- on September 8th,
6 2015, at some point in the day, about 3:12 or so, 3:15,
7 you were alerted to an incident involving Jordn Miller;
8 correct?

9 A Yes.

10 Q At that point, or at any point on September
11 8th, 2015, did you activate your lights?

12 A No.

13 Q Is there a reason why not?

14 A Well, you mean for that call?

15 Q Uh-huh.

16 A No.

17 Q Is there a reason why not?

18 A That did not come out to a -- to us as an
19 emergency call that we would run that type of response.

20 Q Okay. What type of emergency response would
21 you put your lights on for?

22 A Usually crimes in progress or, you know --
23 again, depending on what -- the radio tells us if somebody
24 is in danger, so --

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1 Q And you did not activate your lights in your
2 cruiser on September 8th, 2015, because this was not a
3 call where someone was in danger or a crime was being
4 committed; true?

5 A That is at that point true.

6 Q And at no point did you activate your lights;
7 correct?

8 A Correct.

9 Q Do you know if any of the other officers
10 activated their lights on September 8th, 2015?

11 A I have no way of knowing.

12 Q You don't remember seeing any?

13 A No.

14 Q And because you did not activate your lights,
15 the dash cam would not automatically start recording;
16 correct?

17 A Correct.

18 Q You would have had to manually turn on the
19 recording device?

20 A Yes.

21 Q Which is a flip of the switch?

22 A And you have to push a button.

23 Q And you did not do that regarding Jordn Miller
24 on that call; correct?

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1 A Correct.

2 Q Is that for the same reasons that you didn't
3 activate your lights?

4 A Yeah. We don't usually turn our cameras on
5 manually in the cars for any reason.

6 Q When you heard -- and I know that you've read
7 your statement several times.

8 When you heard or received information about
9 Jordn Miller, you were getting information about what you
10 would call a mental case or a mental health case; right?

11 A Yes.

12 Q Were you by yourself when you got the call?

13 A Yes.

14 Q Or it came over the radio?

15 A Yes.

16 Q Do you remember where you were?

17 A I actually do.

18 Q Where were you?

19 A I was on -- I was in the Village of Lakemore.
20 That was my assigned district. And I was right behind the
21 Scope school.

22 Q How far is that from -- again, approximations,
23 but in your experience 909 Milo White Drive?

24 A Maybe three miles, four miles, rough estimate.

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1 Q You said the Scope school?

2 A Yes.

3 Q How do you spell that?

4 A Just S-C-O-P-E.

5 Q Like the mouthwash?

6 A Yeah.

7 Q And that distance of three to four miles,
8 that's about the same distance, then, to 1019 Abington;
9 right?

10 A Yes, that's all the same neighborhood. Milo
11 White and Abington are all in the same neighborhood.

12 Q Abington, basically, is like a street or so
13 over from Milo White Drive; right?

14 A Yes.

15 Q Before you encountered Jordn Miller, did you
16 have any knowledge about his criminal history?

17 A No.

18 Q Did you have any knowledge about him as a
19 person?

20 A No.

21 Q Had you ever heard his name before?

22 A No.

23 Q Did you know his family in any way?

24 A No.

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1 bottom; correct? Kind of halfway through the page?

2 A Yes.

3 Q And this is your description of why you were
4 there in the first place; right?

5 A Yes.

6 Q So the type of call or offense that you have
7 listed is mental, running around naked; correct?

8 A Yes.

9 Q So at no time during your interaction with
10 Jordn Miller on September 8th, 2015, did you suspect that
11 he was on drugs; correct?

12 A Correct. It was way after the fact.

13 Q And when you were interacting with Jordn
14 Miller, your only suspicion was that he was having a
15 mental health crisis; true?

16 A Yes.

17 Q You knew that you were responding to a request
18 for help for a suspect or a person with a mental health
19 problem; true?

20 A Yes.

21 Q You were called to help that person; true?

22 A Yes.

23 Q You were not called because of any criminal act
24 or offense; true?

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1 MR. BECK: Objection.

2 A We did receive information while still in route
3 to that call that he was committing criminal acts, but the
4 original call was just for the mental health.

5 BY MR. HILL:

6 Q You understood that the person you would be
7 approaching was in the throes of a mental health crisis;
8 true?

9 MR. BECK: Objection.

10 A We -- that's the information we received. We
11 didn't know exactly for sure yet.

12 BY MR. HILL:

13 Q Based on the information, all the information
14 you had was that this person that you were going to be
15 interacting with was in the throes of a mental health
16 crisis?

17 A Yes.

18 Q The term you have here, where it says mental,
19 running around naked, I have seen that term used in other
20 Use of Force Reports here at Springfield Township,
21 "mental." What does that mean, mental?

22 A Just somebody with a -- basically a mental
23 disability of some sort.

24 Like I said earlier, we have a code called 53

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1 in our codes and signals that we use for dispatch and
2 radio communications. And the definition of the 53 just
3 says mental.

4 Q So based on everything you knew regarding this
5 original call, you understood that Jordn Miller was
6 running around naked and had a mental disability of some
7 sort; true?

8 MR. BECK: Objection.

9 Go ahead.

10 A That was some of the information, yes.

11 BY MR. HILL:

12 Q In terms of timing, can you tell me when you
13 created this document, the Use of Force Report?

14 A It was well after I had returned from the
15 hospital. I can't give you an exact.

16 Q Well, if you look at -- if you flip over the
17 pages a little bit here, there are some time stamps at the
18 bottom of Pages 4 and 5.

19 A Okay.

20 Q And 6 of the incident report; correct?

21 A Yes.

22 Q So on Page 4 at the bottom, it's got a time
23 stamp of 20:30?

24 A Yes.

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1 Q After you had spoken to your colleagues about
2 Jordn Miller; correct?

3 A Yes.

4 Q Including Sergeant Moore; correct?

5 A Yes.

6 Q Including Officer Holsopple; correct?

7 A Yes.

8 Q Including Chief Smith; correct?

9 A Yes.

10 Q And at that point, based on everything you
11 knew, you were still dealing with somebody who just had a
12 mental health crisis, not a drug -- you weren't suspecting
13 a drug issue; true?

14 MR. BECK: Objection.

15 A Yeah, I -- his mom was not real cooperative
16 with letting us know what -- what he -- if he did have
17 drugs on board, so I don't -- I was still suspecting that
18 it wasn't an issue.

19 BY MR. HILL:

20 Q That's my only question.

21 Based on everything you created, your
22 interactions with Jordn Miller, everything you did on the
23 Use of Force Report as of 10:00 p.m. on September 8th,
24 2015, the whole time you thought you had been dealing with

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1 somebody who was in the throes of a mental health crisis;

2 true?

3 A Yes.

4 Q So if you could -- and you can follow along
5 however you want. Maybe you can confirm.

6 It looks like -- do you have Exhibit 12 in
7 front of you?

8 A Yes.

9 Q Is that your incident report?

10 A It's the --

11 Q Investigative note?

12 A Yeah.

13 Q If you look at -- compare the investigative
14 note, those three pages, with pages 4, 5 and 6 of the Use
15 of Force Report, it looks like they're identical. The
16 only difference being the signature at the bottom.

17 A You mean Exhibit 6?

18 Q Yes.

19 A Yes, I believe they are the same.

20 Q It looks like the only difference is Exhibit 12
21 has your signatures at the bottom?

22 A Yes.

23 Q But other than that, they're the same?

24 A Yes.

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1 mental episode and that he was running around naked."

2 Correct?

3 A Yes.

4 Q The report you received demonstrated somebody
5 who potentially had a diminished mental capacity; true?

6 A Yes.

7 Q He's engaging in odd behavior; true?

8 A Yes.

9 Q He's engaging in what might be considered
10 irrational behavior; true?

11 A Yes.

12 Q Not a normal thing for people to do; right?

13 A Yes.

14 Q There was no report that he attempted to harm
15 anyone; correct?

16 A Not at this moment.

17 Q I mean, you had not received any information
18 that he had harmed anyone?

19 A Not yet, no.

20 Q There was no report that he was dangerous in
21 any way; correct?

22 A No.

23 Q There was no report that he attempted any
24 crime; correct?

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1 A Not yet.

2 Q And at the time you get this information, it
3 starts to frame your view of the event you're going to
4 respond to, everything indicated that this is a person in
5 mental distress; true?

6 A Yes.

7 Q Not a violent criminal running around
8 terrorizing the neighborhood; right?

9 A Not yet.

10 Q It says -- and I ask this because three
11 officers created this report.

12 It says, "On this date officers received a
13 call."

14 Is that referring to the three of you,
15 Holsopple, Sergeant Moore, and you?

16 A Yes.

17 Q So when it says in this investigative note
18 officers received or officers did this, is that meaning
19 all three of you, you've all endorsed that view?

20 A Yes.

21 Q Do you remember where you were at when you got
22 the call of this mental health issue you were being asked
23 to respond to? Do you remember what the weather was like
24 that day?

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1 A It was -- it was sunny, but it was -- I don't
2 remember the temperature, but it wasn't cold, but it
3 wasn't hot either. It was just an in-between temperature.

4 Q It was clear outside; right? It wasn't raining
5 or anything like that?

6 A Right.

7 Q It was sunny?

8 A Right.

9 Q It was warm outside; correct?

10 A It was cool. It wasn't warm. It wasn't cold.
11 Just that in-between temperature phase. It wasn't -- like
12 I said, it wasn't overly hot and it wasn't overly cold.

13 Q You have a clear memory of that?

14 A Yeah.

15 Q This person who is running around naked, this
16 gives you an impression of a person who might be highly
17 confused; correct?

18 A Originally.

19 Q Might be a person who actually could run into
20 traffic and get hit by a car, get themselves into trouble;
21 true?

22 A Maybe.

23 Q Might be somebody who is scared; correct?

24 A Could be.

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1 Q Could be somebody who, because of their mental
2 state, doesn't even understand who the police are; true?

3 MR. BECK: Objection.

4 Go ahead.

5 A It's possible.

6 BY MR. HILL:

7 Q Right? It's something you have got to
8 consider; right?

9 MR. BECK: Objection.

10 A Possible.

11 BY MR. HILL:

12 Q Based on the information you have, you have got
13 to consider all these things; correct?

14 A Correct.

15 Q You've got to consider that this person might
16 not understand the role that the police are playing in the
17 situation in responding; true?

18 A That's possible.

19 Q You understood that this was someone who needed
20 medical help; true?

21 MR. BECK: Objection.

22 A That's possible.

23 BY MR. HILL:

24 Q That's the purpose of the call; correct?

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1 MR. BECK: Objection.

2 A Yes.

3 BY MR. HILL:

4 Q We know that you did not -- you did not
5 coordinate your response with any other officers; correct?

6 A Yes.

7 Q You agree?

8 A Yes.

9 Q You did not coordinate your response with EMS;
10 correct?

11 A Correct.

12 Q Who was the first person, police officer, to
13 arrive?

14 A Actually, I believe myself and Officer
15 Holsopple kind of got in the area at the same time.

16 Q Initially, based on the information you're
17 getting of this person in the throes of a mental health
18 crisis who needs medical help, what was your plan when you
19 approached?

20 A We had to locate him first.

21 Q What was your plan once you located him?

22 A To evaluate him.

23 Q How were you going to do that?

24 A Just depends on when we got there and what was

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1 happening with him and what he was doing.

2 Q You were just going to show up and see what
3 happens?

4 MR. BECK: Objection.

5 A Yes. That's all we can do.

6 BY MR. HILL:

7 Q Based on the information -- and you understood
8 that Jordn was running around the neighborhood naked,
9 initially; true? Based on the initial call?

10 A The initial call. But then even before we got
11 there, he was already dressed again.

12 Q But based on the initial call you got, Jordn,
13 on a warm day, had disrobed and was running around naked;
14 true?

15 A Yes.

16 Q Based on what you received, this sounded like a
17 call for somebody who was delusional; true?

18 A Could be, yes.

19 Q Could be hallucinating; true?

20 MR. BECK: Objection. We've been over this.

21 A It's possible, yes.

22 BY MR. HILL:

23 Q And once you get that initial information, your
24 plan is just to go there?

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1 flagged down.

2 Q I just want to make sure I understand the
3 statement, though.

4 When it says, "Officer Holsopple and Officer
5 Scherer arrived in the area," you don't know what Officer
6 Holsopple actually did?

7 A I can't answer for him. He was in the area
8 probably looking just like I was doing.

9 Q I just want to know what you know.

10 A Yeah, I don't know.

11 Q It says, "While we were looking, dispatch
12 advised officers that they received a call from 1019
13 Abington that the suspect was there and was in their
14 vehicle in the driveway." True?

15 A Yes.

16 Q So you get that information before you're
17 flagged down; correct?

18 A No. I'm already getting flagged down while
19 we're getting this call.

20 Q I'm just trying to understand the order of the
21 --

22 A Yeah.

23 Q -- the statement.

24 A Because that call is going out. This lady that

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1 flagged me down just tried to tell me that she -- that
2 somebody tried to steal her car, too. So it's all coming
3 out together at the same time.

4 Q So you're driving down Delaware?

5 A Uh-huh.

6 Q Yes?

7 A Yes.

8 Q And as this information is coming over the
9 radio from dispatch, you're at the same time getting
10 flagged down by this person?

11 A Yes.

12 Q And the information you get from dispatch --
13 and we'll talk about what this woman said when she flagged
14 you down. But the information you get from dispatch is
15 that you know now where Jordn is, he's at 1019 Abington;
16 right?

17 A Yes.

18 Q And you know that he's in a parked car in a
19 driveway; true?

20 A Yes.

21 Q How far is 1019 Abington from where you were
22 looking for Jordn?

23 A Probably a few houses up.

24 Q So as you're driving, do you have to turn

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1 A I can't answer for his state of mind.

2 BY MR. HILL:

3 Q Did Jordn start that vehicle? Not the Jeep,
4 but the woman who flagged you down. Did he start her
5 vehicle?

6 A I don't know.

7 Q Did he move the vehicle?

8 A I don't believe so.

9 Q And when you're talking to this woman who flags
10 you down, is she on the passenger side of the vehicle or
11 the driver's side?

12 A She's on my side, driver's side.

13 Q How long does that interaction --

14 A It's just brief. 30 seconds, 45 seconds,
15 maybe.

16 Q And from the time that you received the call of
17 this mental health crisis involving Jordn Miller, how long
18 did it take you to get from the Scope school to 1019
19 Abington where Jordn was?

20 A Honestly, without looking at the dispatch
21 notes, I couldn't even tell you. It was a few minutes,
22 maybe.

23 Q So Officer Holsopple arrives first, correct, to
24 1019 Abington?

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1 A Yes.

2 Q Where does he park his cruiser?

3 A On the street.

4 Q This is a dirt road?

5 A Concrete.

6 Q Concrete road, gravel driveway?

7 A Yes.

8 Q And where do you park your cruiser?

9 A Right behind his.

10 Q Are you guys in the middle of the street? Are
11 you --

12 A We're off to the opposite side of the road.

13 Q So the driveway is -- you're on the other side
14 of the street from the driveway?

15 A No. We're on the same side as the driveway.

16 Q Okay. And when you get out of your car, do you
17 speak with Officer Holsopple at all?

18 A No. We're actually -- as we approach the
19 driveway, we actually get rushed by several citizens.

20 Q So is Office Holsopple out of his car when you
21 pull up?

22 A I don't know if he was just getting out or
23 still getting out. I can't recall.

24 Q He hadn't gone up to the Jeep where Jordn was

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1 Q So Mr. Clark approaches you and Officer
2 Holsopple. You're still together?

3 A Yes.

4 Q And he says, "He's trying to steal my Jeep."
5 Correct?

6 A Yes.

7 Q And you know this is Jordn Miller inside there;
8 right?

9 A Yes.

10 Q You said there were -- and dispatch, it is your
11 understanding that dispatch had already informed these
12 homeowners that Jordn was having a mental episode?

13 A I don't know what they informed the homeowners.

14 Q Now, Jordn had not moved that Jeep; correct?
15 You didn't see it driving around?

16 A No.

17 Q Were the keys inside?

18 A I don't know.

19 Q Did you ask?

20 A No, I didn't ask.

21 Q Is there a reason why not?

22 MR. BECK: Objection.

23 Go ahead.

24 A Because the information we were getting, that

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1 wheel, almost like he was trying to rip it off, still
2 screaming." Correct?

3 A Correct.

4 Q Did you and Officer Holsopple approach the Jeep
5 together?

6 A Yes.

7 Q Did you walk or did you run?

8 A By this time, after we got everybody else, we
9 just walked.

10 Q How far of a walk is it from the end of the
11 driveway to the Jeep?

12 A 25 feet, maybe. I don't know.

13 Q So you and Officer Holsopple walk up to the
14 Jeep.

15 What do you say to the people, the four people
16 holding the door shut?

17 A We just tell them to get out of the way and let
18 us handle it.

19 Q Where were these four -- these are four people
20 plus Chester?

21 A Yes.

22 Q And where are these four people positioned at
23 the Jeep?

24 A If I recall, they were kind of just all around

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1 it, all around the front half of it.

2 Q What do you mean?

3 A From the driver's door to the front of the
4 Jeep, to the back of the Jeep -- or not the back of the
5 Jeep, but the passenger side door of the Jeep.

6 Q Is there -- how many people are on the
7 passenger side?

8 A I don't -- I don't know.

9 Q How many people are on the driver's side?

10 A At least -- at least the one, maybe two.

11 Q And they're all on the outside of the Jeep?

12 A Yes.

13 Q Only Jordn is inside the Jeep?

14 A Yes.

15 Q So at this point you say Jordn is flailing
16 around and screaming, making no sense at all; right?

17 A Yes.

18 Q What is he doing to indicate to you that this
19 guy is making no sense at all?

20 A He's just yelling and, you know, talking to
21 nobody, but just very combative.

22 Q Let's take it step by step.

23 When he's talking to nobody, what's he doing?
24 What's he saying?

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1 A I don't recall everything he was saying. He
2 was just uttering spontaneous nonsense.

3 Q Is he in the driver's side, passenger's side?
4 Where is he at in the car at this point?

5 A Driver's side.

6 Q He's incoherent; right?

7 A He's acting bizarre, yes.

8 Q Did you ask any questions to the four people
9 who are around the Jeep or Chester Clark?

10 A I did not, but I know Officer Holsopple was
11 trying to get some information at that time, too.

12 Q Did Officer Holsopple stay away -- let me ask
13 you this: As you approached, did you approach kind of
14 lockstep together the whole way, or did Officer Holsopple
15 kind of break apart to get information?

16 A No. We were pretty much side by side the whole
17 time. I was -- I kept my focus more on Mr. Miller, and
18 that's why I wasn't really listening to what Officer
19 Holsopple was asking everybody else.

20 Q And as you're listening to Jordn Miller, other
21 than him talking spontaneous nonsense to no one at all, is
22 there anything else you observed him say?

23 A Say, no.

24 Q And was this kind of a constant process where

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1 he's spontaneously uttering nonsense, or were there
2 moments where he wouldn't say anything and then would
3 blurt something out?

4 A It was back and forth.

5 Q Sometimes he would be quiet?

6 A Sometimes he would be quiet; sometimes he would
7 be yelling.

8 Q And when he was yelling, where was he yelling;
9 out the door?

10 A Just wherever his head was pointing. There was
11 no specific direction.

12 Q So you've got your eye on Jordn. The doors are
13 shut; correct?

14 A Yes.

15 Q He's in the car.

16 Where -- do you say anything to Jordn?

17 A Yeah. Myself and Officer Holsopple both tried
18 to calm him down, give him verbal commands to come out,
19 you know, but not too aggressively, you know, and try to
20 find out what's going on with him. We want to try to get
21 him to come out on his own so we can try to help him out
22 and get him some medical attention, and he's just not
23 talking to us.

24 Q I want to take it step by step.

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1 Are you at the driver -- by the driver's side?

2 A Yes.

3 Q What's exactly the first thing you say to
4 Jordn?

5 A I -- I couldn't even begin to tell you. I know
6 we're just trying to -- basically, it's like a
7 negotiation, so we're just trying to negotiate him out of
8 the truck and tell him we're there to help him.

9 Q And as you're trying to negotiate, is he still
10 spontaneously uttering nonsense?

11 A Yes.

12 Q So you're -- when you say negotiating with him,
13 can you give me an example of the type of thing you would
14 have said?

15 A We would ask him what's going on, how is he
16 feeling today, why is he doing this, you know, is there
17 something we can do for you, can we get you some help, you
18 know, are you on anything, have you eaten? I mean, just
19 anything to try to start a dialogue.

20 Q And what is he saying in response?

21 A He's saying nothing to us.

22 Q Nothing or nonsense?

23 A Both. He won't even answer us, but then he
24 would just yell nonsense.

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1 Q So you knew at this point your negotiations
2 weren't going to get anywhere; correct?

3 A Correct.

4 Q Verbal commands are going to make no difference
5 with this person?

6 A That is correct.

7 Q You're not going to get any real information
8 out of this person because of whatever medical or mental
9 health episode he's in; right?

10 A Yes.

11 Q You say he was flailing around inside the Jeep.
12 Was he flailing around while he was uttering the
13 spontaneous nonsense?

14 A It's all a combination, back and forth, yeah,
15 so --

16 Q How was he -- when you say flailing, I image
17 someone --

18 A Just flailing his arms.

19 Q And is he in the driver's seat the whole time,
20 or is he moving around the Jeep?

21 A He's in the driver's seat the whole time.

22 Q And as you're -- at this point, where Jordn is
23 flailing his arms, kind of just blurting out nonsense and
24 not -- clearly, he doesn't know what's going on; right?

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1 A Yes.

2 Q You and both Officer Holsopple -- are you both
3 at the driver's side at this point?

4 A Yes.

5 Q Other than flailing around, kind of throwing
6 his arms up and down, does he do anything else before he
7 starts grabbing the steering wheel?

8 A No.

9 Q So you say he grabbed onto the steering wheel,
10 jerking like he was trying to rip it off. Is that --

11 A Yes.

12 Q He's got both hands on the steering wheel?

13 A Yes.

14 Q Is he like shaking it?

15 A Yeah.

16 Q Show me.

17 A (Indicating.)

18 Q So the steering wheel is not moving. His body
19 is probably moving; right?

20 A Correct.

21 Q Is he still kind of saying this nonsense?

22 A On and off.

23 Q Has he said anything coherent that you've heard
24 at this point?

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1 A No.

2 Q At this point, you haven't seen him try to --
3 you haven't seen any keys in his hand; right?

4 A No.

5 Q You haven't seen any ability of him to be able
6 to drive away at this point; right?

7 A No.

8 Q So at this point, you understood that you've
9 got a mentally-troubled young man who is confused,
10 incoherent, making no sense at all, who had been
11 reportedly running around the neighborhood naked but now
12 was clothed, inside someone else's car yelling, flailing
13 and screaming; true?

14 A Yes, but there's also more to that.

15 Q Which is?

16 A Officer Holsopple received this information,
17 that he related to me before we took him out of the car,
18 that he actually tried to stab one of the homeowners's son
19 in the head with a pair of the needle nose pliers, because
20 he was actually in the car trying to get Mr. Miller out of
21 the car. So, you know, at that point they were more than
22 angry. They were also demanding that we remove him from
23 their vehicle and their property. And those were all
24 considerations that were taken into effect at this point.

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1 the incident and the nature of the incident, you're not
2 going to recall every single fact when you're actually
3 sitting down to write this report.

4 Q And also after you were done with that incident
5 investigative note and you created the Use of Force Report
6 that's on Exhibit 6, you did not include pliers or any
7 tools as a weapon that Jordn Miller used that resulted in
8 your using force against him; true?

9 MR. BECK: Objection.

10 Go ahead.

11 A That's -- that's what it says, yes.

12 BY MR. HILL:

13 Q From the tools you've described, they were
14 never in Jordn's hands at any time you saw Jordn; true?

15 A That is true.

16 Q Based on your interactions with Jordn, you
17 understood that once he was out of the vehicle he still
18 wasn't going to obey your verbal commands; correct?

19 MR. BECK: Objection.

20 A He was not obeying, no.

21 BY MR. HILL:

22 Q Any reason to believe that mentally he would
23 have changed from the time he was contained in the vehicle
24 to you removing him out of the vehicle?

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1 A Yes. In my experience, sometimes it only takes
2 a simple use of force of grabbing somebody out of the car,
3 when they start, "Okay, okay, okay. I'm going to listen.
4 I'll listen. I'll listen."

5 So at any given time, people have changed
6 through my experiences. So I had no reason to believe at
7 that point that he couldn't refocus and start obeying our
8 commands.

9 Q So that was your expectation as a police
10 officer?

11 A My expectation, and I have seen it.

12 Q Now, you understood that once you removed him
13 from the vehicle, if he didn't shape up and become
14 coherent all of a sudden but was still flailing around
15 uttering nonsense, you would have to use physical force
16 against him; right?

17 A Yes.

18 Q You would have to control him, or else, he
19 could just run away or something; right?

20 A Yes.

21 Q I mean, this is a guy who had been running
22 around the neighborhood; right?

23 A Yes.

24 Q So once you got him out, what was your plan if

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1 Q And you've had the ability, if you wanted to,
2 to pull out that radio and summons the fire department;
3 correct?

4 A I could have.

5 Q I mean, whether you thought you needed to is
6 one thing. But you had the time and opportunity to do so;
7 correct?

8 A I suppose so, possibly.

9 Q Did you know at this point whether or not EMS
10 was in route?

11 A No.

12 Q Did you do anything to find out is a squad on
13 its way?

14 A No.

15 Q Did you talk to your supervisor, Sergeant
16 Moore, at any point?

17 A No.

18 Q Is there a reason you didn't contact your
19 supervisor to say, "Here's the situation. Our plan is to
20 remove him from the vehicle"?

21 A We had to get him out of that vehicle because I
22 was in fear that he could start that vehicle and leave, by
23 any means, whether it was -- if there were keys in there
24 or not, or with those tools. If he got mobile, now he's

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1 A First of all, you have to kind of understand
2 the demographics of where we're at. And most of these
3 people over there are motor heads, which means -- that's
4 all they do, is work on cars.

5 Do they have the capability of peeling a column
6 and starting a car? I don't know. Can it happen?
7 Absolutely.

8 I don't know what his abilities are. But I
9 have to prepare that if he does know how to do that and
10 he's capable of doing it and he has the tools in there to
11 do it, we can't let that vehicle get mobile. So I don't
12 know what his abilities are. I have never dealt with him.
13 I had never spoken to him.

14 BY MR. HILL:

15 Q So I just want to make sure I understand.

16 From your perspective, one of the primary
17 reasons you felt you had to get Jordn out of the car is
18 because in his condition you thought he might be able to
19 start the car in some fashion and drive away with these
20 tools?

21 A He could have, yes. That was a concern.

22 Q And while you had observed Jordn this entire
23 time, you never saw him get one of these tools and try to
24 start the car; true?

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1 A That's true.

2 Q And you never saw any keys in Jordn's hands at
3 any time?

4 A No.

5 Q And nobody ever told you, "Oh, the keys are
6 inside the car. He can take off"?

7 A No.

8 Q Other than Officer Holsopple, at this point in
9 time, when you made the decision to remove Jordn from the
10 vehicle, have you spoken with any police officer at all
11 from Springfield Township?

12 A No.

13 Q And the chief is on duty at this point;
14 correct?

15 A Yes.

16 Q Is he a resource you can speak to, then Chief
17 John Smith?

18 A I would assume, yes.

19 Q Not something you've ever done?

20 A No.

21 Q So let's stop there.

22 Before you extract the vehicle, you and Officer
23 Holsopple are next to the driver's side door. How far are
24 you from the vehicle?

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1 A Two, three feet.

2 Q So he can't -- if you're two or three feet --
3 is the window open?

4 A I believe it is.

5 Q Do you remember one way or another?

6 A No. I know the report says it was, but I don't
7 recall it up or down.

8 Q Jordn never swings his hand outside the window
9 to try to hit you; right?

10 A I don't believe so. I don't recall that, but
11 --

12 Q And then the four to five people who were
13 present in the driveway when you got there, where are they
14 standing at this point?

15 A Honestly, after we just tried to get them back,
16 I didn't pay any attention to them. My focus is on
17 Mr. Miller.

18 Q When Jordn's hands are on the steering wheel,
19 is there any -- aside from driving away with the vehicle,
20 is there any threat that Jordn poses to you or Officer
21 Holsopple?

22 A That's unknown.

23 Q And is that the same answer for any threat
24 Jordn posed to anyone else at that moment?

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1 A I would say yes.

2 Q So moving on in the statement: "We opened the
3 door to extract him from the vehicle, and he immediately
4 started to fight and resist with both officers. We were
5 able to get him out of the vehicle, onto the ground, onto
6 his stomach." Okay?

7 A Okay.

8 Q And that's your writing; correct?

9 A Yes.

10 Q Jordn did not try to get out of the vehicle on
11 his own; correct?

12 A No.

13 Q Correct, right?

14 A Correct.

15 Q What I said is correct, okay.

16 You made the decision to open the driver's side
17 door and remove Jordn?

18 A Yes.

19 Q As you attempted to pull Jordn from the
20 vehicle, he tried to stay in the vehicle; true?

21 A Yes.

22 Q Was he grabbing the steering wheel? Was he
23 still holding on?

24 A With one arm.

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1 Q And where did you grab Jordn to get him out of
2 the vehicle?

3 A Well, actually, initially, just Officer
4 Holsopple reached in and grabbed the arm to try to more or
5 less escort him out.

6 Q Grabbed his left arm?

7 A I don't recall what arm it was, but he just --
8 the free arm that wasn't holding onto the wheel. But he
9 tried to actually just kind of arm bar him and escort him
10 out gently to see if he could just get him to come out.
11 When he pulled back, he automatically started to resist
12 us. And that's when we both reached in and grabbed him
13 with a lot more force, pulling him out so that, one, he
14 would let go of that wheel and that, two, we could get him
15 out of the car.

16 Q How do you grab Jordn?

17 A Just by the arm and -- basically, just by the
18 upper torso and like the shoulder of his coat.

19 Q And that coat is a hooded sweatshirt; right?

20 A Yes.

21 Q So Officer Holsopple has one of Jordn's arms,
22 free arm; correct?

23 A Yes.

24 Q And he's pulling on that?

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1 A Yes.

2 Q And then you have Jordn by the coat, like the
3 collar area?

4 A Yeah, like by the arm and the shoulder of the
5 coat.

6 Q And you have got both hands on him and you're
7 pulling Jordn?

8 A Yes.

9 Q And Jordn has got his right hand still on the
10 steering wheel, trying to stay in the vehicle; right?

11 A Yes.

12 Q And at this point have you -- are you still
13 trying to negotiate with Jordn?

14 A Yeah. We're still trying to tell him, "Just
15 come out of the car. Just come out of the car."

16 Q But at this point -- that's the point where
17 you're trying to rip him out of the car and he's trying to
18 keep himself inside?

19 A Yes. When he exhibited force by pulling away
20 from Officer Holsopple, then we exhibited another level of
21 force to try to match and supersede his a little bit, just
22 enough to get him out of the car. But he's still hanging
23 on.

24 Q And the force you're talking about Jordn

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1 exhibiting is him holding onto that steering wheel and
2 trying to get his body in the car?

3 A Yes.

4 Q It states you're able to get Jordn out of the
5 vehicle. So at some point you're able to break his grasp
6 where he's holding onto the steering wheel?

7 A Yes.

8 Q It says you get him onto the ground -- is this
9 that gravel drive?

10 A Yes.

11 Q You get him onto the ground and onto his
12 stomach; right?

13 A Yes.

14 Q When you get Jordn onto his stomach, where are
15 you in relation to the Jeep?

16 Where are the three people now? It's you,
17 Holsopple and Jordn; right?

18 A Yeah. Just a few feet next to the Jeep.

19 Q So you're off to the driver's side of the Jeep;
20 right?

21 A Yes.

22 Q Is Jordn's head facing the engine of the
23 vehicle or facing the rear tires?

24 A No, he's facing actually away from the Jeep

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1 A Yes.

2 Q Where are -- are you kneeling or standing?

3 A I think I was actually kneeling on my right
4 knee. And Officer Holsopple was, I believe -- he might
5 have been on both his knees next to him. And we just had
6 our hands on his back, trying to calm him down, still
7 trying to talk to him. He's still not listening to us.
8 And Joe and I -- or Officer Holsopple and I make the
9 decision that we've to get him into some cuffs. So at
10 that point I --

11 Q Can I stop you right there?

12 A Yes.

13 Q Kind of time-sequence-wise.

14 You're -- both of you have your hands on Jordn;
15 right?

16 A Yes.

17 Q You're holding on to Jordn's body?

18 A Yes.

19 Q Is he trying to -- and he's face down. Is he
20 trying to get up off the ground?

21 A He is flailing around, kicking, yelling. He
22 keeps arching his back up and just yelling just loud
23 noises, not anything specific, just yelling, and trying to
24 roll side-to-side.

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1 So he -- to us, he is trying to get up.

2 Q And in order to keep him from getting up, you
3 and Officer Holsopple have to put force down on Jordn to
4 keep him on the ground; right?

5 A Yes.

6 Q And your hands are where?

7 A Like on his shoulder and lower back, almost
8 near his back. And I think Officer Holsopple is probably
9 around the same type of distance, just on the opposite
10 side of him.

11 Q So four hands on Jordn's -- somewhere on
12 Jordn's back?

13 A Yes.

14 Q And he's trying to arch his back up to get up,
15 and you're keeping him down?

16 A Yes.

17 Q And you have to use some force to keep him
18 down, because he's really thrashing; right?

19 A Correct.

20 Q How long does that continue?

21 A It seems forever, but the reality is it might
22 have been --

23 Q I don't want you to guess.

24 A Yeah. I don't know, then.

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1 This is when we're starting to develop that he
2 is super strong and we cannot, you know, break that arm
3 out from underneath of him.

4 Q So if he's super strong at this point, it must
5 take a lot of force from you and Officer Holsopple to keep
6 him down?

7 A We're not using that much force, honestly. I
8 mean, we are -- we're using just enough force, but we're
9 not laying on him, we're not -- you know, we're not
10 putting our weight into him. We are just trying to more
11 control his movements than laying on him.

12 Q I want to be fair here.

13 If he has got superhuman strength, why doesn't
14 he just get up if you're not putting force on him?

15 MR. BECK: Objection. That's not what he said.

16 A I can't answer that.

17 BY MR. HILL:

18 Q Put it this way: You're using enough force,
19 you and Holsopple, on Jordn's back, to keep this person
20 who is developing superhuman strength in a prone position;
21 fair?

22 A Yes. We're trying to control him.

23 Q Jordn never got up; true?

24 A No.

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1 Q When he becomes unresponsive, he's still in the
2 prone position; true?

3 A Split second. But yeah, he's still -- he was
4 in the prone position.

5 Q So let me -- I think you kind of jumped ahead
6 in the statement, so let me try to catch up here.

7 A Okay.

8 Q You say, "Officer Holsopple said we should try
9 to get the cuffs on him." That's a quote; correct?

10 A Yes.

11 Q So at this point, had you guys not -- was there
12 no plan to put handcuffs on him at this point?

13 A We were just still trying to control him enough
14 to get him to calm down. And then when we got him out of
15 that truck and we knew that we weren't going to be able to
16 control him anymore, we knew we had to get him secured.
17 That was the only way we were going to be able to get him
18 any type of help or get this situation ended.

19 Q So everything you did this day was for Jordn's
20 help?

21 A Yes.

22 Q So it says, "At that time Officer Scherer was
23 able to get one cuff on his left hand."

24 A Okay.

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1 discussed this after the fact?

2 A Yeah, yeah.

3 Q And throughout this point, Jordn's left hand is
4 still underneath him, under his diaphragm; right?

5 A Yeah, one of his arms is underneath him.

6 Q Have you and Officer -- so Officer -- do you
7 know who is holding Jordn's cuffed hand, you or Officer
8 Holsopple?

9 A I believe Officer Holsopple was.

10 Q Do you remember if Officer Holsopple has both
11 hands on Jordn, Jordn's wrist that's cuffed, or one?

12 A Actually, if he had them, he probably just had
13 them by the chain of the cuff.

14 Q Do you remember?

15 A No, I don't remember.

16 Q Do you remember when you and Officer Holsopple
17 discussed Jordn having superhuman strength and power?

18 A That would have been later that night.

19 Q Like when you guys were putting this note
20 together?

21 A Yeah, after we kind of decompressed a little
22 bit.

23 Q It says, "Officer Holsopple attempted to get
24 his right arm free." That's Jordn; right?

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1 A Yes.

2 Q So it's his right arm that's underneath him.

3 A Like I said, I don't remember, in the throes of
4 all the craziness you're battling -- you know, I know what
5 side I was on, but I don't remember which arm was cuffed
6 or which arm was underneath him. I just knew one arm was
7 underneath him and we had one cuff on the other one.

8 Q So the statement you wrote at the time is
9 better than your memory today; is that fair?

10 A Yeah, absolutely.

11 Q So you're on Jordn's left side as he's face
12 down?

13 A Yes.

14 Q The entire time?

15 A Yes.

16 Q Jordn's left hand, left arm, which is the one
17 on your side, is behind his back and cuffed; right?

18 A Okay. Yes.

19 Q I mean, that's what it says; right?

20 A Yes.

21 Q And then Jordn's right arm, which would be the
22 one away from you, is underneath his body, crossed,
23 underneath his diaphragm; like you said earlier?

24 A Yes.

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1 Q So at the point he arched up and -- he must
2 have turned his head to bite your leg?

3 A Yes.

4 Q And it's about six inches off the ground?

5 A Six, seven inches, yeah.

6 Q But you remember him going --

7 A Yeah, he's --

8 Q How high did his head go?

9 A High enough to get my calf. I mean, he arched
10 up and turned his head right at me and just clamped onto
11 my calf.

12 Q But I mean, he bit you, your calf, maybe six
13 inches off the ground. He wouldn't have to arch up very
14 far to bite your calf; right?

15 A No.

16 Q So how high -- I'm trying to ask you. How high
17 did he actually lift up? Was his head at your chest?

18 A No. Just high enough to get to my -- the bite
19 mark on my calf --

20 Q Like six inches?

21 A Yeah. The bite mark is about six inches from
22 the bottom of my foot, maybe seven, so just that high.

23 Q It says, "Officer Scherer advised Holsopple
24 that the suspect was biting him. Officer Scherer pulled

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1 his leg out of his mouth while he was still fighting. He
2 turned sideways and then laid back down."

3 So I want to unpack this a little bit.

4 Jordn's left arm on your side at the time he
5 bites you is cuffed and behind his back?

6 A Yes.

7 Q And he bites you. And at the time he's biting
8 you, you say, "Officer Holsopple, he's biting me"?

9 A He's biting me.

10 Q Then, you pull your leg out of his mouth?

11 A Yes.

12 Q How do you do that? Rip it out?

13 A I just rip it out. Yep, I just rip it out and
14 end up standing up more.

15 Q So you just rip your -- you don't grab your leg
16 with your hands; you just take a step backwards?

17 A Right.

18 Q And at that point he's not biting you any
19 longer?

20 A Not after I rip my leg out of his mouth.

21 Q And then it says, "He turned sideways." So do
22 you mean he rolled over? Is that what you mean, he turned
23 sideways?

24 A No. I don't know --

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1 Q Or he turned his head sideways?

2 A He just turned his head back sideways.

3 Q And then it says, "He laid back down." Right?

4 A Yeah. So he's just in one fluid motion laying
5 back down to where his face is flat down on the ground.

6 Q So he lifts his head up off the ground, about
7 six inches, bites you. You move your leg back. He lays
8 his head face down back in the gravel?

9 A Yes.

10 Q And there's -- you have stood up, but do you go
11 back down to that kneeling position you had before?

12 A Not initially.

13 Q So the biting event has concluded at this
14 point?

15 A Yes.

16 Q And Officer Holsopple is still holding Jordn
17 down?

18 A Yes.

19 Q And from where you're at, at this point, Jordn
20 can't bite you; correct?

21 A Correct.

22 Q It says, "Officer Scherer then struck the
23 suspect in the left common peroneal to gain compliance."
24 Correct?

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1 A Correct.

2 Q So I want to -- this sequence of events -- the
3 biting event has ended. He's face down. You strike him
4 with -- can I say a fist?

5 A My foot, actually.

6 Q Your foot?

7 A There was a strike, a kick strike to his common
8 peroneal.

9 Q So you -- this is because you're standing up
10 now; right?

11 A Yes.

12 Q So the biting event has ended. He's face down.
13 You've taken a step back; right?

14 A I'm still next to him, yes.

15 Q But you're standing --

16 A I'm clear he's not going to bite me again.

17 Q Right. And then can I say -- kick and strike;
18 is there a difference?

19 A I consider a kick a kick with a fist -- or a
20 foot, and a strike is more of a hand-punch motion.

21 Q So you kick him?

22 A I kick him.

23 Q Where do you kick him?

24 A In the left common peroneal.

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1 Q What is that?

2 A That is the meaty part of the left thigh.

3 Q And when you kick him in the meaty part of the
4 thigh, it's his left thigh; right?

5 A Yes.

6 Q He's at that point face down in the gravel;
7 right?

8 A Yes.

9 Q With Officer Holsopple on his side?

10 A Yes.

11 Q And the reason you kick him is to gain
12 compliance?

13 A Trying to gain more compliance. He's
14 escalating force. We have to now escalate the force. And
15 we're still in the process of trying to gain that
16 compliance and control to get him into control, to get him
17 cuffed, to get him the help that he needs.

18 Q When you kicked Jordn in the leg, are you
19 wearing boots? What kind of shoes do you wear?

20 A Boots or tennis shoes. It depends on the
21 weather. I might have had tennis shoes on that day.

22 Q And when you kick Jordn, when he's face down in
23 the gravel, what response is there?

24 A Zero.

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1 Q Is he still then -- because he was face down
2 when you kicked him. Is he still face down after you kick
3 him?

4 A He's still face down. He's still kicking,
5 flailing, and yelling.

6 Q Do you kick him with your right leg?

7 A Yeah, I believe. So I'm right handed, so
8 everything usually --

9 Q That's your strong side?

10 A Yes.

11 Q At the moment you kicked Jordn, was just
12 Officer Holsopple able to hold him down?

13 A No. He was still having difficulties.

14 Q But I mean, he was the only one holding him
15 down?

16 A He was the only one holding him at that point.

17 Q And he was able to hold him down?

18 A He was having difficulties, but he was still
19 maintaining him on the ground, yes.

20 Q At the moment you kicked Jordn and you're
21 standing there, do you try to find out whether or not EMS
22 is on its way?

23 A Not yet.

24 Q Have you attempted in any way to contact EMS or

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1 he's not totally in the gravel.

2 Q What do you do after you kick Jordn?

3 A At that point, I realize that I have no other
4 option than to escalate the force to the Taser. I tell
5 Officer Holsopple that I'm going to deploy the Taser.

6 Q Let me -- can I stop you for a second?

7 A Sure.

8 Q Before you tell Officer Holsopple you're going
9 to deploy the Taser, have you said anything to Jordn at
10 all -- even about him biting you? Are you saying
11 anything, speaking to Jordn at all at this point?

12 A I believe Officer Holsopple is still trying to
13 tell him to settle down.

14 Q But from your perspective --

15 A Yeah. I have not said anything else at this
16 point.

17 Q And at this point, is Jordn saying anything?
18 Is he still making his nonsensical --

19 A He's just -- I'm sorry.

20 Q Go ahead.

21 A Yeah. No. He's just yelling again. Nothing
22 specific; just yelling.

23 Q Just ahhh?

24 A Yeah, just general yelling.

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1 A On my left.

2 Q And is that because your firearm, then, is on
3 your right?

4 A Yes, it's a cross draw.

5 Q So then tell me how you mechanically -- what
6 you do to draw your Taser.

7 A I usually take my left arm and just flip the --
8 flip the lock back that holds the Taser in place, and with
9 my right arm I cross draw and pull it out of my holster.

10 Q And at the time that you do this, are you back
11 kneeling down at this point?

12 A Yeah, I believe I drop to a knee again.

13 Q Same knee as before?

14 A Yeah. I don't know.

15 Q And we were trying -- before we took a break,
16 we were trying to get an understanding of what arm was
17 being described that Officer Holsopple moved away to grab.
18 But it sounds like in terms of your recollection all you
19 can remember Holsopple grabbing was Jordn's left arm,
20 which has been cuffed behind his back pretty much the
21 entire time; true?

22 A Yes.

23 Q And at the time you decide to -- you make the
24 decision to use your electrical-conducted weapon, from

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1 everything you've seen, Jordn is still in the throes of
2 this mental health crisis; true?

3 A Yes.

4 Q And you've already recognized at this point
5 that he's not capable of following your commands; correct?

6 A Yes. He's still not listening.

7 Q Right. There's been no indication, though,
8 based on his behavior, his nonsensical speech, that he's
9 even capable of following your commands; true?

10 MR. BECK: Objection.

11 A I don't know what he's capable of. I just know
12 he's not doing it.

13 BY MR. HILL:

14 Q And so far, from everything you've seen, your
15 understanding is that all of Jordn's behavior is due to
16 this -- well, let me strike that.

17 At this point, everything you've seen and
18 everything you've been engaging in with Jordn, you do not
19 and have not suspected drug use; true?

20 A True.

21 Q What you are suspecting at this point is still
22 mental health?

23 A Yes.

24 Q At the time you used the Taser, Jordn's head is

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1 facing -- you know, his face is facing the gravel
2 driveway; right?

3 A Yes.

4 Q As you grab the Taser, is it with your left
5 hand, the cross draw?

6 A Right hand.

7 Q Right hand. I'm sorry.

8 Where is your left hand? Is it still on
9 Jordn's back?

10 A Yeah. Officer Holsopple actually lifts up
11 Jordn's sweatshirt a little bit to expose his skin, and I
12 just kind of put my hand back on his back, my left hand
13 back on his back.

14 Q Where on his back?

15 A Just underneath the jacket line, just to make
16 sure the jacket doesn't slide back down.

17 Q So your hand, if I understand it -- Officer
18 Holsopple has pulled Jordn's sweatshirt up towards his --
19 from his waist to his neck area?

20 A No. Only about mid back.

21 Q But I mean, that's the direction he's pulling
22 it up?

23 A Yes.

24 Q So his pulling it from the waistband area

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1 towards his neck?

2 A Yes.

3 Q And he gets about halfway up?

4 A Yes.

5 Q And then you put your left hand -- it would be

6 in the center of Jordn's back, then, near where the

7 sweatshirt ends; right?

8 A Yeah. I'm just holding up the sweatshirt to

9 make sure it doesn't fall back down, just flat.

10 Q Is he resisting at this point with a lot of
11 force to get up?

12 A He's still flailing and yelling and rearing
13 back and still just very out of control, yes.

14 Q So in order to prevent Jordn from getting up,
15 are you equaling or have to overpower his force of getting
16 up with your force of pushing down; right?

17 A I don't have very much pressure applied to him
18 whatsoever with my left hand.

19 Q What I'm saying is you are actively pushing
20 down on Jordn or else he would just get up; right?

21 A Well, yes, we have to.

22 Q That's my point.

23 So you're pushing down on Jordn in the center
24 of his back at this point?

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1 A More on the side of his back, yeah. It's not
2 so much in the center.

3 Q Is it towards the left or towards his --
4 towards Jordn's left or towards his right?

5 A His left. It's closest to me.

6 Q So you're pushing down. And where is Officer
7 Holsopple's hands? He's got one hand on the cuffed area;
8 right?

9 A Yes.

10 Q And from what you could tell, is he also
11 pushing down to prevent Jordn from getting up?

12 A Honestly, I don't know.

13 Q At this point, Jordn has not stood up; correct?

14 A Correct.

15 Q You've been able to keep him on the ground the
16 whole time?

17 A Yes.

18 Q And when you say you're going to deploy your
19 Taser, does Officer Holsopple say anything in response or
20 just pull up his shirt?

21 A He just pulls up his shirt.

22 Q So you fire the Taser, and the darts -- I'll
23 read it: "The darts struck him in the middle of the back
24 and were about three inches apart from each other."

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1 Officer Scherer also put the Taser on his right thigh as a
2 dry stun maneuver to make a good connection." Correct?

3 A Yes.

4 Q So the darts that you fired -- about how far
5 were you from Jordn when you fired the Taser darts into
6 his back?

7 A I don't know. I was -- I remember going up
8 more like this to -- instead of standing up, because I
9 didn't want to stand up and leave Officer Holsopple trying
10 to hold him down by himself. So I remember going up real
11 high this way, as high as I could reach, to help make a
12 spread of those darts.

13 Q Okay.

14 A So --

15 Q Because the farther the spread, the more -- the
16 better the connection; right?

17 A The better effectiveness it has.

18 Q Because the better -- when you say better
19 effectiveness, what do you mean?

20 A It means that the more compliance we are able
21 to gain with the -- the wider the spread.

22 Q And that's because there's more neuromuscular
23 contraction; right?

24 A Yes.

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1 Q And when you actually fire the Taser dart into
2 Jordn's back, his face is still pointing forward; right?

3 A Yes.

4 Q He hasn't bitten you again; right?

5 A Thank God, no.

6 Q He hasn't even tried to bite you again; right?

7 A No.

8 Q And you have the darts now in the center of
9 Jordn's back; right?

10 A Yes.

11 Q How close are they -- you obviously moved your
12 hand away when you fired; right?

13 A Oh, absolutely.

14 Q So you pulled his shirt up and held it there
15 for a while, and then you got your hand out of the way so
16 you don't shoot yourself?

17 A Yes.

18 Q And then you have the darts then in Jordn's
19 bare skin. And then you use -- can you show us how you
20 use the Taser to connect Jordn's thigh -- this is the same
21 thigh you kicked; right?

22 A No, this is the opposite thigh.

23 Q So you are actually going across your body?

24 A Yeah, I went across his body.

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1 Q So are you behind Jordn at this point or just
2 leaning over?

3 A I'm just leaning.

4 Q So can you kind of show us what you did, then?

5 A The darts are deployed in his back. He's still
6 got the wires, and the cartridge is still on the Taser
7 device itself.

8 So all you do is -- you can actually just take
9 that Taser and take -- and just push it down, you know,
10 just drive it into somebody's leg or whatever body part
11 you choose. And then that acts as a connection, also.
12 It's almost like a third dart in the sense of -- without
13 any puncture wounds.

14 Q Right. It takes that three-inch spread that
15 you had to a very large spread; right?

16 A Yes.

17 Q Which is ideal for creating that neuromuscular
18 contraction; right?

19 A Correct.

20 Q And you apply the Taser itself to his bare
21 thigh; right? Because he's got shorts on?

22 A Yes.

23 Q I'm trying to get an idea, because you're
24 standing -- you're on his opposite side. You're on his

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1 you fire the darts and then make the connection to the
2 thigh, like that; right?

3 A Yeah, whatever the time is to go from here to
4 there.

5 Q And that here to there was you moving your hand
6 three feet or so?

7 A Correct.

8 Q And you don't know what amount of time elapsed
9 in between; right?

10 A No.

11 Q It was one movement, right, boom, boom?

12 A Yeah.

13 Q How did Jordn's body -- now, let me ask you.
14 Let me take a step back.

15 You shoot the darts into his back, and you make
16 the connection. He's still in a prone position; right?

17 A Yes.

18 Q How does Jordn's body react to the application
19 of the electrical-conducted weapon?

20 A He went into full NMI.

21 Q What does that mean to a lay person?

22 A Neuromuscular incapacitation.

23 Q What does that mean to a lay person?

24 A It means that it worked.

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1 Q What we talked about earlier, that body seizing
2 up?

3 A Yeah, he seized up. And that allowed us to get
4 him under control or get him in cuffs at that point.

5 Q As soon as you do that, do you get him in cuffs
6 or do you call EMS first?

7 A Officer Holsopple is getting him in cuffs. And
8 at the same time, then I get on my radio and advise that
9 we have a Taser deployment, that we need a 29, which is
10 our code for an ambulance.

11 Q This is the first time anyone, as far as you
12 are aware, has contacted an ambulance or requested an
13 ambulance?

14 A Yes.

15 Q And when you requested the ambulance, you did
16 not call the fire department directly; right?

17 A No.

18 Q You went through dispatch?

19 A Yes.

20 Q And how long did that take to make that call?

21 A I -- I don't know. I don't know what the
22 process is at dispatch.

23 Q I mean, you -- like how long did it take you to
24 tell dispatch we need an ambulance?

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1 A Just a few seconds. Just enough to be able to
2 get to my mic, key it, and say the words.

3 Q And then you knew that -- through that dispatch
4 would make the arrangements to get the fire department and
5 ambulance there?

6 A Yes.

7 Q You write: "The suspect raised up. His arms
8 swung out, and Officer Holsopple was able to secure his
9 other wrist in the cuff."

10 That's his right wrist, then; right?

11 A Yes.

12 Q "Right after the Taser shut off, and he was
13 cuffed, he was still fighting, kicking and squirming
14 around. This was when Sergeant Denise Moore was also on
15 scene. He was still out of control, trying to turn on his
16 side."

17 A Yes.

18 Q Was Sergeant Moore on scene when you used the
19 Taser the first time?

20 A No.

21 Q You say, "Right after the Taser shut off and he
22 was cuffed, he was still fighting, kicking, and squirming
23 around."

24 A Yes. Right after the cycle, he was still

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1 combative. He continued right where he left off.

2 Q And now both hands are handcuffed behind his
3 back?

4 A That is correct.

5 Q He's still in prone position; right?

6 A Yes.

7 Q Are you back down on your side, on your knees,
8 on Jordn's left side?

9 A Yeah. I'm still in the same spot that I was.
10 I had never moved yet.

11 Q And is Officer Holsopple still in the same
12 spot?

13 A Yes.

14 Q And you say he's fighting, kicking, and
15 squirming around. What's he doing?

16 A Yeah, he's still doing the same thing. He's
17 still trying to rear up. He's kind of moving his head
18 back and forth, side-to-side, similar to the same
19 movements he did when he bit me.

20 And like I said, he was still kicking both his
21 feet and then just trying -- since now he was cuffed, he
22 was just trying to turn -- roll over side-to-side, and
23 then he was still yelling and just banging his head back
24 and forth.

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1 He had started banging his head more on the
2 ground at this point.

3 Q Where are your hands -- let me ask you: Do you
4 put the Taser back?

5 A No. I still have the Taser in my hand.

6 Q So it's in your right hand?

7 A Yes.

8 Q What are you doing with the Taser in your right
9 hand at this point?

10 A It's just -- I'm just holding it at this point.

11 Q Is it, you know -- is the plastic material
12 touching Jordn's body anywhere?

13 A No.

14 Q How are you holding it?

15 A Just up like this (indicating).

16 Q And where is your left hand?

17 A It's still just sitting on top -- or on his
18 back.

19 Q By his handcuffs, or where at?

20 A Yeah, just mid, lower back.

21 Q Where are Officer Holsopple's hands?

22 A I think he's more up towards his shoulders.

23 Q You say more towards his shoulders. More in
24 the middle of his back, then, like between his shoulder

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1 blades?

2 A Yeah, but still on the side. He was still on
3 the side. He was still on that right side of Jordn.

4 Q You say Jordn is squirming around. He's trying
5 to get on his side, you say?

6 A Yeah. He's just rolling back, side-to-side,
7 yelling.

8 Q So he's trying to get himself out of prone
9 position?

10 A I don't know what he's trying to do. He's
11 acting the same as he's been acting.

12 Q Let me take that back.
13 His body movements are rocking side-to-side,
14 which would get him out of prone position; right? His
15 body is trying to roll over?

16 A He's trying to do something, yes.

17 Q What you're seeing is his body --

18 A Yeah, rolling side-to-side.

19 Q He's in prone position, and his body is moving
20 away from prone position; right?

21 A He's going side-to-side.

22 Q And you and Officer Holsopple are keeping him
23 in prone position; right?

24 A Yeah. We are just trying to still gain

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1 compliance of him.

2 Q But my question is: You guys are -- with the
3 pressure you're applying to him to keep him from moving --

4 A Yes.

5 Q -- you're keeping him in prone position?

6 A Yes.

7 Q And you have to press down with some force in
8 order to do that?

9 A Yes.

10 Q And it says, "This was when Sergeant Denise
11 Moore was also on scene."

12 Can you tell me how long between the first time
13 you used the electrical-conducted weapon on Jordn Miller,
14 while he was in prone position, did Sergeant Moore arrive?

15 A I don't know. She came up from behind me, so I
16 really -- I was focused and tunnel-visioned right on
17 Jordn, and she came up behind me, so I don't know exactly
18 when she arrived on scene.

19 Q Sergeant Moore is now the third officer on
20 scene?

21 A Yes.

22 Q When officer -- were there any other officers
23 on scene?

24 A Not at that time.

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1 Q Until Jordn became unresponsive, were there any
2 other officers who came on scene aside from you,
3 Holsopple, and Moore?

4 A No.

5 Q And Sergeant Moore is the on-scene supervisor
6 at this point?

7 A Yes.

8 Q So when Jordn is fighting, kicking and
9 squirming during this period, he's in prone position,
10 hands restrained behind his back?

11 A Yes, sir.

12 Q He can't bite anyone at this point; true?

13 A He still could if we got our leg up there.

14 Q He was not -- based on where you were
15 positioned, Holsopple was positioned, Sergeant Moore was
16 positioned, he wasn't able to bite anybody?

17 A That's hard to answer, because I don't know
18 what he's capable of. I already saw what he was capable
19 of. Could he still do it at that point? I don't know.

20 Q Before you tasered him, I asked you about him
21 biting and him attempting to bite you again, before you
22 tasered him.

23 Had he attempted to bite you again before
24 Officer Moore comes back?

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1 A I can't stop him from banging his head on the
2 ground. I used the Taser to get him under control.
3 That's the only method we had that was going to work for
4 this situation. That was the best method.

5 Q What was a safer position for Jordn to be in;
6 on his side or face down?

7 A Ideally, if he could be sitting up, that would
8 be the best.

9 Q Why?

10 A Well, then there's no issues. That means he's
11 calmed down. It means we have control of him. It means
12 that he would not be in a prone position. But that's in
13 an ideal situation.

14 Q I'm just asking you from a safety perspective,
15 as an officer whose job it is to help somebody, what's a
16 safer position for Jordn to be in; on his side or in a
17 prone position?

18 MR. BECK: Objection.

19 Go ahead.

20 A Again, it depends on his manners. The safest
21 position is sitting up. That's my opinion.

22 BY MR. HILL:

23 Q You talked earlier about the risks of
24 positional restraint asphyxia. Those risks decrease when

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1 a person is on his side; true? We agreed to that earlier?

2 A Yes.

3 Q Those risks of positional restraint asphyxia

4 decrease when a person is sitting up as opposed to prone

5 position; true?

6 A That is true.

7 Q In terms of positional restraint asphyxia, the

8 safer position would be for Jordn to be on his side or

9 sitting upright as opposed to in a prone position; true?

10 MR. BECK: Objection.

11 Go ahead.

12 A In any case, yes.

13 BY MR. HILL:

14 Q Now, at this point are the probes still in

15 Jordn's back?

16 A Yes.

17 Q The probe -- what do you call them, lines,

18 connectors? What are the wires?

19 A Just wires.

20 Q The wires have not broken; correct?

21 A No.

22 Q And while Jordn is handcuffed in prone

23 position, and as a third officer is on scene, you use the

24 electrical-conducted weapon again; true?

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1 A Yes.

2 Q How do you use the electrical-conducted weapon
3 the second time?

4 A Same as the first. I just try to hit on his
5 calf to try to make a larger connection.

6 I left it on there for about two to three
7 seconds, and I saw that it then had zero effects. And I
8 actually removed it from his calf at that point and just
9 held it up in the air, because my brain couldn't focus to
10 tell me just to shut the switch off. So I actually let it
11 cycle out while it was up in the air because I knew this
12 was not working anymore.

13 And then once that five-second cycle was done,
14 you know, I actually took the Taser cartridge off, threw
15 it, and threw my Taser off to the side of the ground. I
16 couldn't even get it into the --

17 MR. HILL: I'm going to pause for a quick
18 second, okay?

19 (Discussion held off the record.)

20 MR. HILL: Officer, we're going to adjourn for
21 the day. So we'll see you back at ten a.m. in the
22 morning, okay? It's about 3:30.

23 THE WITNESS: Yes, sir.

24 - - -

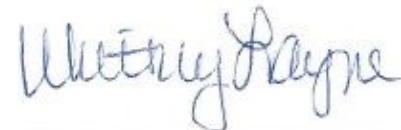
CERTIFICATE

State of Ohio :

County of Franklin:

I, Whitney Layne, Notary Public in and for the State of Ohio, duly commissioned and qualified, certify that the within named ROBERT SCHERER was by me duly sworn to testify to the whole truth in the cause aforesaid; that the testimony was taken down by me in stenotype in the presence of said witness; afterwards transcribed upon a computer; that the foregoing is a true and correct transcript of the testimony given by said witness taken at the time and place in the foregoing caption specified.

IN WITNESS WHEREOF, I have set my hand and affixed my seal of office at Dublin, Ohio, on this 21st day of March, 2017.



Whitney Layne, Notary Public

In and for the State of Ohio

My Commission expires May 4, 2020